

STATE OF CALIFORNIA
STATE AND CONSUMER SERVICES AGENCY
CALIFORNIA BUILDING STANDARDS COMMISSION
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Office Use Item No. _____

PARTICIPATION COMMENTS FOR THE 15-DAY NOTICES DATED JUNE 16, 2011
Written comments are to be sent to the above address.

WRITTEN COMMENT DEADLINE: JUNE 30, 2011

Date: 6/22/2011

From:

Wes Sullens

Name (Print or type)

StopWaste.Org of Alameda County

(Signature)

--

Agency, jurisdiction, chapter, company, association, individual, etc.

1537 Webster
Street

Oakland
City

CA
State

94612
Zip

I/We **do not** agree with:

☒ The Agency proposed modifications As Submitted on Section No. A4.405.3, A5.405.3, and A5.405.4

and request that this section or reference provision be recommended:

☐ Approved ☐ Disapproved ☐ Held for Further Study ☒ Approved as Amended

Suggested Revisions to the Text of the Regulations:

"...If the manufacturer does not separately identify the pre-consumer and post-consumer recycled content of a material but reports it as a total single percentage, ~~one-half~~ all of the total shall be considered pre-consumer and ~~one-half~~ none shall be considered post-consumer recycled material."

Reason: [The reason should be concise if the request is for "Disapproval," "Further Study," or "Approve As Amend" and identify at least one of the 9-point criteria (following) of Health and Safety Code §18930.]

The 50/50 default split between pre-consumer and post-consumer is an arbitrary assumption and is unfair to those products for which manufacturers have determined the true quantity of post-consumer recycled content materials (in violation of H&S Code Section 18930.a.4: "The proposed building standard is not unreasonable, arbitrary, unfair, or capricious, in whole or in part."). For recycled-content products, post-consumer recycled content is a higher and better use of materials than pre-consumer recycled materials because they represent a 'closed loop' of taking back product at end of life. Post-consumer content is also generally more difficult for manufacturers to use as substitute for virgin or industrial scrap materials due to quality issues of feedstock and availability of recycled materials in the marketplace. Therefore, it is the view of our Agency that post-consumer recycled content building materials are a priority for waste reduction strategies in our County and beyond, and

should be rewarded above and beyond pre-consumer recycled content materials. In fact, CALGreen recognizes the benefits of post-consumer over pre-consumer by allowing post-consumer to be a 100% multiplier in the materials measure calculation (Tier 1/2), while pre-consumer recycled content values are only allowed a 50% multiplier.

The proposed amendment StopWaste.Org is making removes the arbitrary split between pre-consumer and post-consumer recycled content and defers instead to a more conservative assumption of 100% pre-consumer. Instead of encouraging manufacturers to not report accurately--which the current language essentially does, especially if their product does not contain any post-consumer recycled content--we instead think this code item should be used to encourage manufacturers to seek accurate reporting of recycling claims because by doing so their products could be valued higher in green building standards. We feel CALGreen should be pushing for accuracy in reporting instead of providing a convenient "out" for the industry which can actually falsely reward products that contain no post-consumer recycled content.

HEALTH & SAFETY CODE SECTION 18930

SECTION 18930. APPROVAL OR ADOPTION OF BUILDING STANDARDS; ANALYSIS AND CRITERIA; REVIEW CONSIDERATIONS; FACTUAL DETERMINATIONS

- (a) Any building standard adopted or proposed by state agencies shall be submitted to, and approved or adopted by, the California Building Standards Commission prior to codification. Prior to submission to the commission, building standards shall be adopted in compliance with the procedures specified in Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. Building standards adopted by state agencies and submitted to the commission for approval shall be accompanied by an analysis written by the adopting agency or state agency that proposes the building standards which shall, to the satisfaction of the commission, justify the approval thereof in terms of the following criteria:
 - (1) The proposed building standards do not conflict with, overlap, or duplicate other building standards.
 - (2) The proposed building standard is within the parameters established by enabling legislation and is not expressly within the exclusive jurisdiction of another agency.
 - (3) The public interest requires the adoption of the building standards.
 - (4) The proposed building standard is not unreasonable, arbitrary, unfair, or capricious, in whole or in part.
 - (5) The cost to the public is reasonable, based on the overall benefit to be derived from the building standards.
 - (6) The proposed building standard is not unnecessarily ambiguous or vague, in whole or in part.
 - (7) The applicable national specifications, published standards, and model codes have been incorporated therein as provided in this part, where appropriate.
 - (A) If a national specification, published standard, or model code does not adequately address the goals of the state agency, a statement defining the inadequacy shall accompany the proposed building standard when submitted to the commission.
 - (B) If there is no national specification, published standard, or model code that is relevant to the proposed building standard, the state agency shall prepare a statement informing the commission and submit that statement with the proposed building standard.
- (8) The format of the proposed building standards is consistent with that adopted by the commission.
- (9) The proposed building standard, if it promotes fire and panic safety as determined by the State Fire Marshal, has the written approval of the State Fire Marshal.